

1-1 By: Carona S.B. No. 1533
 1-2 (In the Senate - Filed March 8, 2013; March 19, 2013, read
 1-3 first time and referred to Committee on Finance; April 22, 2013,
 1-4 reported favorably by the following vote: Yeas 14, Nays 0;
 1-5 April 22, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			
1-20			X	
1-21	X			
1-22	X			

1-23 A BILL TO BE ENTITLED
 1-24 AN ACT

1-25 relating to municipal sales and use tax remittances by certain
 1-26 retailers.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 SECTION 1. Subdivision (3), Subsection (a), Section
 1-29 321.002, Tax Code, is amended to read as follows:

1-30 (3)(A) [~~(3)~~] "Place of business of the retailer" means
 1-31 an established outlet, office, or location operated by the retailer
 1-32 or the retailer's agent or employee for the purpose of receiving
 1-33 orders for taxable items and includes any location at which three or
 1-34 more orders are received by the retailer during a calendar year. A
 1-35 warehouse, storage yard, or manufacturing plant is not a "place of
 1-36 business of the retailer" unless at least three orders are received
 1-37 by the retailer during the calendar year at the warehouse, storage
 1-38 yard, or manufacturing plant.

1-39 (B) An outlet, office, facility, or any location
 1-40 that contracts with a retail or commercial business to process for
 1-41 that business invoices, purchase orders, bills of lading, or other
 1-42 equivalent records onto which sales tax is added, including an
 1-43 office operated for the purpose of buying and selling taxable goods
 1-44 to be used or consumed by the retail or commercial business, is not
 1-45 a "place of business of the retailer" if the comptroller determines
 1-46 that the outlet, office, facility, or location functions or exists
 1-47 to avoid the tax imposed by this chapter or to rebate a portion of
 1-48 the tax imposed by this chapter to the contracting business. An
 1-49 outlet, office, facility, or location does not exist to avoid the
 1-50 tax imposed by this chapter or to rebate a portion of the tax
 1-51 imposed by this chapter if any rebate it contracts to receive is
 1-52 lower than the amount of its annual payroll and the outlet, office,
 1-53 facility, or location provides significant business services,
 1-54 beyond processing invoices, to the contracting business, including
 1-55 logistics management, purchasing, inventory control, and other
 1-56 vital business services.

1-57 (C) Notwithstanding any other provision of this
 1-58 subdivision, a kiosk is not a "place of business of the retailer."
 1-59 In this subdivision, "kiosk" means a small stand-alone area or
 1-60 structure that:

1-61 (i) [~~(A)~~] is used solely to display

2-1 merchandise or to submit orders for taxable items from a data entry
2-2 device, or both;

2-3 (ii) [~~(B)~~] is located entirely within a
2-4 location that is a place of business of another retailer, such as a
2-5 department store or shopping mall; and

2-6 (iii) [~~(C)~~] at which taxable items are not
2-7 available for immediate delivery to a customer.

2-8 SECTION 2. The change in law made by this Act does not
2-9 affect tax liability accruing before the effective date of this
2-10 Act. That liability continues in effect as if this Act had not been
2-11 enacted, and the former law is continued in effect for the
2-12 collection of taxes due and for civil and criminal enforcement of
2-13 the liability for those taxes.

2-14 SECTION 3. This Act takes effect September 1, 2013.

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